

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Governor Jesse Ventura,

Civil No. 12-473

Plaintiff,

vs.

Chris Kyle,

**DECLARATION OF JOHN P.
BORGER IN OPPOSITION TO
MOTION TO AMEND TO CLAIM
PUNITIVE DAMAGES**

Defendant.

I, John P. Borger, hereby declare as follows:

1. I am an attorney at Faegre Baker Daniels LLP, which represents Defendant Chris Kyle in the above-captioned case. I make this Declaration upon personal knowledge and upon review of the firm's files and records in this case, including the exhibits identified below.

2. Attached hereto as Exhibit A (and submitted under seal) is a true and correct copy of the entire transcript of the deposition of defendant Chris Kyle, taken on November 28, 2012.

3. The time for Mr. Kyle to submit errata and to sign his transcript has not yet expired.

4. Attached hereto as Exhibit B is a true and correct copy of a redacted transcript of the deposition of defendant Chris Kyle, taken on November 28, 2012. The redactions reflect timely designations of confidential portions of that transcript.

5. Some of the redacted material in Exhibit B was filed publicly as part of the December 12, 2012, Supplemental Affidavit of Court J. Anderson (Dkt. #121), prior to the time permitted for confidentiality designations under Paragraph 8 of the Protective Order (Dkt. #15).

6. Attached hereto as Exhibit C (and submitted under seal) is a true and correct copy of the entire transcript of the deposition of third-party witness James DeFelice, taken on November 30, 2012.

7. Attached hereto as Exhibit D is a true and correct copy of a redacted transcript of the deposition of third-party witness James DeFelice, taken on November 30, 2012. The redactions reflect timely designations of confidential portions of that transcript.

8. Some of the redacted material in Exhibit D was filed publicly as part of the December 14, 2012, Second Supplemental Affidavit of Court J. Anderson (Dkt. #122), prior to the time permitted for confidentiality designations under Paragraph 8 of the Protective Order (Dkt. #15).

9. Attached hereto as Exhibit E is a true and correct copy of the Acknowledgment of Deponent and Errata Sheet to the deposition of third-party witness James DeFelice, taken on November 30, 2012.

10. Attached hereto is a true and correct copy of the following non-confidential exhibit marked at the deposition of Defendant Chris Kyle, taken on November 28, 2012: DEP. EX. 81.

11. Attached hereto (and submitted under seal) are true and correct copies of the following confidential exhibits marked at the depositions of Defendant Chris Kyle, taken on November 28, 2012, and of James D. DeFelice, taken on November 30, 2012: DEP. EX. 88¹; DEP. EX. 89²; DEP. EX. 90; DEP. EX. 91; DEP. EX. 92; DEP. EX. 93; DEP. EX. 94; DEP. EX. 95; DEP. EX. 96; DEP. EX. 97; DEP. EX. 106; DEP. EX. 107; DEP. EX. 108; DEP. EX. 109; DEP. EX. 110; DEP. EX. 111; DEP. EX. 112; DEP. EX. 114; DEP. EX. 115; DEP. EX. 116³; DEP. EX. 117; DEP. EX. 118; DEP. EX. 119⁴; DEP. EX. 120; DEP. EX. 121; DEP. EX. 122; DEP. EX. 142⁵; DEP. EX. 143⁶; DEP. EX. 145; DEP. EX. 146.

12. Deposition exhibits that consist of excerpts from Chris Kyle's book AMERICAN SNIPER are not attached to this declaration, where the deposition testimony

¹ The marked version of Dep. Ex. 88, a transcription from an audio bearing production number JDF00090 that was designated confidential, omitted the confidential stamp. Defendant has applied a confidential stamp to the version filed herein.

² The marked version of Dep. Ex. 89, a transcription from an audio bearing production number JDF00091 that was designated confidential, omitted the confidential stamp. Defendant has applied a confidential stamp to the version filed herein.

³ The marked version of Dep. Ex. 116, bearing production number CK0005327 that was designated confidential, cut off the confidential stamp. Defendant has re-applied the confidential stamp on the version filed herein.

⁴ The marked version of Dep. Ex. 119, bearing production numbers CK0005357 and CK0005353 that were designated confidential, cut off the confidential stamp. Defendant has re-applied the confidential stamp on the version filed herein.

⁵ Audio bearing production number JDF00090, played during the deposition of James DeFelice and marked as DEP. EX. 142

⁶ Audio bearing production number JDF00091, played during the deposition of James DeFelice and marked as DEP. EX. 143

refers to the pertinent pages of the Book. A copy of the entire Book was provided to the Court previously as Dkt. #24-2.

13. The following deposition exhibits are not attached, because they consist of material previously filed with the Court, as indicated:

- 1) Deposition exhibit 100 was Exhibit B to the Complaint (Dkt. #1-1 at 24)
- 2) Deposition exhibit 103 was Exhibit C to the Complaint (Dkt. #1-1 at 32)
- 3) Deposition exhibit 113 was Exhibit E to the Complaint (Dkt. #1-1 at 47)

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: January 4, 2012

/s/ John P. Borger
John P. Borger